
Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 11-12 NOVEMBER 1998

Note by the Secretariat

1. The Committee on Sanitary and Phytosanitary Measures ("the Committee") held its thirtieth meeting on 11-12 November 1998, under the chairmanship of Mr. Alejandro Thiermann (United States). The agenda proposed in WTO/AIR/962 was adopted with amendments.

1. Implementation of the Agreement

(a) Information from Members

(i) *Costa Rica - status as country free of classic swine fever*

2. The representative of Costa Rica informed the Committee that since 1 April 1996, his authorities had declared Costa Rica to be free of classic swine fever (CSF), following a nine-month period without outbreaks of the disease. In February 1994, after official confirmation of the first outbreak of CSF, his authorities had implemented a national emergency plan to deal with exotic diseases, including quarantine, inspection and disinfection actions, and had declared a state of emergency in the northern part of the country. In January 1995, the animal health authorities introduced a national plan for the eradication of CSF, which included swine slaughter and destruction of carcasses and sanitary measures dealing with the domestic transportation of swine. The last outbreak of CSF in Costa Rica took place in July 1995. Epidemiologic surveillance measures were put in place in January 1996.

(ii) *United States - interim rule affecting solid wood packaging material*

3. The representative of the United States provided information regarding the US interim rule affecting solid wood packaging material imported from China (G/SPS/GEN/107). The measure, notified to the WTO (G/SPS/N/USA/137 refers), was scheduled to enter into effect on 17 December 1998, and amended the regulations for importing logs, lumber and other unmanufactured wood articles by adding treatment and documentation requirements for solid wood packing material imported from China, including the Hong Kong Special Administrative Region.

4. The representative of Hong Kong, China indicated that her authorities had submitted comments and a number of questions to the US government. Hong Kong, China was having bilateral discussions with the relevant US authorities on this matter, and although the discussions had been constructive and useful, her authorities were concerned that the proposed US measure, which included only Hong Kong, China among WTO Members, might not be consistent with the provisions of the SPS Agreement. Noting that the stated objective of the US initiative was to protect plant life, Hong Kong, China's concern was that the SPS measure applied to meet this objective should not be arbitrary or unjustifiably discriminatory. Although the Interim Rule stated that "it is necessary to include the Hong Kong Special Administrative Region (HKSAR) in this interim rule in some form to effectively address the problem", Hong Kong, China did not understand why this was necessary and how, by including the HKSAR alone in addition to China, the rule would effectively address the problem.

Hong Kong, China was also concerned with the adverse impact that the implementation of the US rule might have on the environment.

5. The representative of Hong Kong, China also noted that the US notification lacked clarity. It described the proposed measure as affecting "anyone who uses solid wood packing material in connection with exporting commodities from China to the United States", without specific reference to Hong Kong, China or any other WTO Member. However, the US interim rule specified that the rule affected Hong Kong, China. Her authorities were thus not clear as to the exact coverage of the measure, crucial information for analysing the effectiveness of the proposed action, and its basis in the context of SPS and other WTO provisions. Hong Kong, China was still awaiting US clarification of the intended geographical coverage of the proposed action.

6. Her authorities also wondered whether it was scientifically justifiable for the United States to single out Hong Kong, China for inclusion in its proposed action. The United States' stated objective in the interim rule was to control the entry of four genera of wood-boring insects from China. Of these four genera of insects, it was understood that the United States was most concerned with the Asian Longhorned Beetle. However, the Asian Longhorned Beetle did not exist in Hong Kong, China. Two of the remaining three genera were not found in Hong Kong, China either. Although the fourth genus, *Monochamus*, was found in Hong Kong, China, it seemed to be more extensive in the United States, where at least nine species could be found. Furthermore, Hong Kong, China did not produce solid wood packing materials, or more generally wood in any commercial sense. Hong Kong, China was not in itself a source of infested shipments, and over 90 per cent of shipments originating from Hong Kong, China to the United States did not use solid wood packing material.

7. As for shipments routed through Hong Kong, China, if the originating country had in place control measures acceptable to the United States, there was no need to duplicate those arrangements in Hong Kong, China. A US official at a public hearing on 16 October 1998 had stated that for shipments originating from China routed through Hong Kong, China there would be no need for any action by Hong Kong, China. Goods being transhipped from China to the United States through Hong Kong, China did not normally undergo repackaging in Hong Kong, China. Furthermore, over 80 per cent of the products re-exported to the United States did not need solid wood packaging because they were light industrial products requiring only paper carton packaging.

8. Hong Kong, China thus presented no more risk, as a source of the insects or a source of solid wood packing material or a source of shipments than many other places in the world. The four genera of pests were found in many different parts of the world, and there were other places which handled re-exports from China to the United States or which used solid wood packing material from China. Including only Hong Kong, China among Members in the proposed action was therefore unjustifiable and not in conformity with Article 2.3 of the Agreement.

9. The representative of Hong Kong, China observed that Article 5 of the SPS Agreement, and also the International Plant Protection Convention (IPPC), required that SPS measures be based on a risk assessment which evaluated the likelihood of entry, establishment or spread of the pests concerned. However, it appeared that no such risk assessment had been conducted in respect of Hong Kong, China. As a WTO Member and separate customs territory, Hong Kong, China should be treated separately in the application of trade rules from the mainland of China. Her authorities were also concerned about the environmental consequences of the proposed US measure which required treatment of solid wood packing material by one of three possible methods: heating, pressure treatment, and fumigation with Methyl Bromide.

10. Although Hong Kong, China agreed that fumigation with Methyl Bromide was probably the most effective and practical method, the use of this substance had undesirable implications for the environment and human health. Methyl Bromide was a significant ozone-depleting substance and was lethal to all life forms. Its use and production was controlled by the Montreal Protocol which included clear timetables for the complete phase-out of the substance. The further use of Methyl

Bromide resulting from the US measure would be damaging to the environment and contrary to internationally-accepted goals and practice. The United States itself had legislation providing for the early phase-out of Methyl Bromide, including its use for plant quarantine purposes. Hong Kong, China estimated that if it were to fumigate the relevant shipments to the United States, it would require a 10-fold increase in use of this substance. Furthermore, containers fumigated with Methyl Bromide could potentially present a serious health risk to the crew of a ship. Hong Kong, China was waiting for a US response to its questions about the impact on the ozone layer and human health, and reserved its rights to pursue the matter further, if necessary.

11. The representative of Canada indicated that his authorities had imposed a measure on shipments from China containing packaging material made of unmanufactured wood (G/SPS/N/CAN/44 refers). The focus of the Canadian measure was on the Asian Longhorned Beetle, a particularly damaging pest, with an acquired taste for the maple trees which were economically very important to his country. Two recent interceptions had occurred from China. To minimize the disruption of trade from this measure, Canada had initially applied its measure only to imports of this material from China. However, the measure had subsequently been extended to Hong Kong, China because of the high proportion of imports from China shipped through Hong Kong, China. Moreover, it was his authorities' understanding that some of the packing material used in exports from Hong Kong, China originated in China. As of 4 January 1999, all imports with this packaging material would require certification that they had been treated by one of several measures to remove this pest. Canada was engaged in discussions with China and discussions were being initiated with Hong Kong, China on alternative mechanisms to address the problem. A technical expert would be sent to China and to Hong Kong, China to study ways, modalities and administrative arrangements whereby the implementation of this measure could be carried out with a minimum disruption of bilateral trade.

12. The representative of the United States indicated that he had taken note of the comments of the representative of Hong Kong, China and encouraged her authorities, as well as other Members, to provide their comments to the US enquiry point before 17 November 1998, in order to allow the United States to fully consider any modifications of the interim rule.

(iii) *Chile – Implementation activities*

13. The representative of Chile reported that his country had recently been recognized as free of Classical Swine Fever by Uruguay and Cuba.¹ Argentina, Peru and the United States had requested further information on this matter. Chile had also been recognized as free from Mediterranean fruit-fly by all of its major trading partners, with the exception of Japan and the Republic of Korea. However, in both those countries recognition was pending only on administrative grounds and was expected to be completed before March 1999. He informed the Committee that Chile had been elected Vice-Chairman of the Interim Commission on Phytosanitary Measures, and also that Chile was actively participating in diverse Codex Committees.

(b) Specific trade concerns

(i) *Mexico - Import prohibition of Thai milled rice (G/SPS/GEN/82)*

14. The representative from Thailand noted that despite the fact that this issue had been on the agenda for the last four meetings of the Committee, it remained unsolved. Thailand had proposed to hold bilateral consultations with Mexico prior to the Committee meeting with the participation of the Chairman, in accordance with the practice under Article 12.2 of the Agreement. Mexico accepted the principle of bilateral consultations, but not the participation of the Chairman. Thailand would welcome any means to advance this matter, including the involvement of a neutral or independent expert, and proposed that Mexico suggest the form of future consultations.

¹ See also G/SPS/R/11, paragraph 11.

15. With regard to the substance of the issue, he recalled that in November 1993, Mexico had proclaimed that Thai rice was infected by the fungus *Tilletia barclayana*. Thailand had provided scientific data showing that Mexico as well as other countries that exported rice into Mexico were infected by this fungus. So far Mexico had provided no scientific data demonstrating the risk of transmission of this pest from Thai milled rice. He drew the attention of Mexico to the last paragraph of G/SPS/GEN/82. He stressed that the Mexican measure was inconsistent with Article 2.3 of the SPS Agreement and Articles I and III of GATT 1994. During the bilateral discussions held prior to the meeting, Mexico had insisted that Thailand had not yet provided information on a new pest as requested in a letter dated November 1997. While this was correct, the Thai authorities saw no linkage between the new pest and the import prohibition on Thai milled rice. Furthermore, the new pest was not listed in the regulation establishing quarantine measures to prevent the introduction of rice pests into Mexico (G/SPS/N/MEX/55 refers). Thailand was concerned that Mexico might continue to request information on one pest after another. In view of the good relationship between the two countries, Thailand would continue to consult with Mexico. However, this problem was vital to the interests of Thailand and he urged the Mexican delegation to convey this message to their authorities.

16. The representative of Mexico noted that bilateral consultations with Thailand had taken place in line with the Committee procedures. As he had stated at the last meeting, Mexico had officially and repeatedly requested information from Thailand, which the Thai authorities had not yet provided.² Upon receipt of such information, Mexico would examine it along with the information previously received, and would proceed accordingly. During the bilateral consultations held on the eve of the Committee meeting, Mexico had provided the official Mexican regulations earlier requested by Thailand. Mexico did not share Thailand's views regarding Mexico's disrespect of the SPS Agreement or other WTO obligations. Mexico had also fully respected its notification obligations.

(ii) *Slovak Republic – Import ban on dairy products and the transit ban in relation to BSE*

17. The representative of Switzerland reported that following several bilateral consultations, Switzerland and the Slovak Republic were close to a short-term solution regarding the import ban on Swiss dairy products in relation to BSE. With regard to the longer term, a few technical issues remained to be settled, but both parties hoped to find a solution shortly, possibly before the March 1999 Committee meeting.

18. The representative of the Slovak Republic confirmed the Swiss statement and reaffirmed his authorities' best efforts to conclude this matter as soon as possible.

(iii) *France and Norway – Restrictions on imports of gelatin*

19. The representative of Brazil welcomed the new French decision which had taken into consideration the concerns often expressed by her authorities regarding certain specific requirements on gelatin. She urged France to implement the new requirements as soon as possible in order to allow Brazil to resume gelatin exports to France. Given the recent OIE resolution on the subject, Brazil expected that there would be no further restrictions on international trade of gelatin made from hides. The EC representative asked for formal confirmation of the Brazilian authorities' agreement with the French decision.

20. The representative of Brazil thanked Norway for having clarified the Norwegian requirements for imports of gelatin. Brazil had no problem meeting such requirements, and looked forward to resuming exports of gelatin to Norway.

² See G/SPS/R/11, paragraph 18.

(iv) *Australia - Import restrictions on Roquefort cheese*

21. The EC representative, supported by Switzerland, noted that cheeses produced with raw milk were often subject to requirements that were in contradiction with their production methods. Until 1994, French cheese made of raw milk, in particular Roquefort cheese, could be marketed in Australia on the condition that it had been under storage during a 120-day period from its arrival in Australian territory before being released for consumption. Since 1994, the Australian authorities had required that imported cheeses be manufactured exclusively from pasteurized milk. In 1997, French authorities had requested the easing of this measure, considering that the respect of good hygienic practices provided guarantees equivalent to those sought by the measure. The Australian and New Zealand Food Authority (ANZFA) had requested details and dialogue had continued since then. However, a number of questions remained unanswered and, in particular, Australia had not yet identified the legislation that provided the basis for the import ban of Roquefort cheese, nor had Australia indicated if such legislation had been notified to the WTO. He requested Australia to identify the international standard on which the Australian measure was based and, if there was none, the scientific justification for the measure and whether it was based on a risk assessment.

22. The representative of Australia responded that current Australian food standards required that all cheese be made from milk that was pasteurized or subject to an equivalent process, as indicated by phosphatase activity; alternatively cheese could be made from milk which has been thermized and the cheese stored at low temperatures for at least 90 days. The importation of food into Australia was controlled by the Imported Food Control Act of 1992, which was the means by which the Australian Food Standards Code was enforced at the border. Since this legislation existed before the entry into force of the SPS Agreement, it had not been required to be notified to the WTO. ANZFA was currently considering an application from the Roquefort cheese manufacturers to recognize the equivalence of the Roquefort cheese manufacturing process. In considering this application, the risk assessment undertaken by the Australian authorities had raised concerns about the potential survival of pathogenic micro-organisms, in particular entero-hemorrhagic E-coli, in the final product. The report on this finding had been communicated to the Roquefort manufacturers in June 1998, and the Roquefort manufacturers had requested time to provide further data. The data on the propagation dynamics of E-coli during storage of Roquefort cheese were received by the Food Authority in October 1998 and were being evaluated. A final decision was likely in the first quarter of 1999.

23. The representative of Australia indicated that importation of dairy products into Australia was also restricted in order to protect animal health. The Australian Quarantine and Inspection Service (AQIS) had conducted a review of current access conditions and would soon publish draft revised conditions for entry of dairy products, including cheese. At the same time, these would be notified under the SPS procedures and a 60-day comment period would be allowed. Following this, the entry conditions would be finalized, making resolution of the issue probable in early 1999.

(v) *Australia – Restrictions on imports of sauces from the Philippines containing benzoic acid*

24. Pursuing a matter raised at the September 1998 meeting of the Committee³, the representative of the Philippines noted that bilateral consultations with Australia had, so far, been unsuccessful. Australia prohibited all imports of sauces containing benzoic acid, except those originating from New Zealand. According to Australian authorities, the imports from New Zealand were allowed because of transitional arrangements related to the development of a joint food standards system by the Australian and New Zealand Food Authority (ANZFA). Under this agreement, Australia permitted imports of food stuff from New Zealand which complied either with Australian or with New Zealand food regulations. The latter allowed the use of benzoic acid in sauces. In addition, the transitional arrangement included a dual standard clause which allowed Australian food manufacturers to apply the New Zealand food regulations. The Philippines were of the view that the Australian measure was

³ See G/SPS/R/12, paragraphs 83-85 and G/SPS/GEN/106.

inconsistent with Article 2 of the SPS Agreement, and in particular Article 2.3. The Australian discriminatory measure had been in place since 1996, preventing access for Philippine products to the Australian market. The Philippines reiterated its request for the immediate lifting of the ban.

25. The Australian delegate responded that the current arrangements allowing sauces containing benzoic acids from New Zealand but not from other countries were transitional and arose from a treaty between the two countries to develop a common food standards system for both countries by the end of 1999. Considerable progress had been made regarding benzoic acids in sauces. Following detailed dietary exposure determinations, ANZFA had proposed that the level of 1 thousand mg/kg for benzoic acids in sauces be approved. The draft general standard had been notified in October 1998 with a comment period until the end of December. ANZFA expected that the final standard for food additives would be implemented in the first half of 1999.

(vi) *Chairman's report on consultations*

26. The Chairman informed the Committee of bilateral consultations which he had been requested to facilitate. These consultations had been requested by Bolivia, with regard to EC aflatoxin levels for chestnuts, a matter raised at the last meeting of the Committee by the Bolivian representative.⁴ The consultations were held on 22 October in Brussels, with the participation of technical experts from both parties. The Chairman's view was that the consultations had been very fruitful and had helped Bolivia to better understand the rationale behind the EC measures and the procedures followed by the European Communities. They had also helped the European Communities to better understand the potential effect of some of the measures being implemented by the Bolivian industry. The technical consultations were continuing and the Chairman hoped that a bilateral resolution would be found soon.

27. The Secretariat and the Chairman had also been requested to facilitate bilateral consultations between the United States and Poland, regarding tolerance levels for weed seeds, particularly of the genus *Ambrosia*. The consultations had taken place prior to the Committee meeting and had focused on technical aspects of pest risk analysis. Both parties had agreed to continue the consultations, and the Chairman was optimistic that they would lead to a rapid resolution.

28. The Chairman expressed his appreciation for the efforts of Members to resolve difficulties through bilateral consultations. He observed that Article 12.2 provided a means and opportunity to identify possible solutions, and could prevent the need to take other routes for the resolution of SPS problems.

(c) Consideration of specific notifications received

(i) *Switzerland – Notification (G/SPS/N/CHE/14 and Corr.1 and G/SPS/N/CHE/16) on import requirements on meat; Notification (G/SPS/N/CHE/15) on eggs, egg products, food containing eggs or egg products*

29. Addressing an issue raised at the last Committee meeting, the US representative, supported by Israel, Canada, Australia, Hungary, Chile, Brazil, India and New Zealand, noted that the proposed Swiss regulations regarding the establishment of requirements for the importation of meat from animals and poultry fed with hormones, antibiotics and similar agents as growth promoters (G/SPS/N/CHE/14 and Corr.1 and G/SPS/N/CHE/16 refer) would prohibit meat from these animals to be imported under the Swiss tariff rate quotas (TRQ). The regulation notified under G/SPS/N/CHE/15 would prohibit eggs and egg products from birds raised in battery cages to be imported under the TRQ. Such imports would still be permitted to be imported outside the TRQ, but would be subject to prohibitively high duties, strict labelling and additional certification requirements.

⁴ See G/SPS/R/12, paragraph 11-14.

The proposed regulations on eggs and egg products did not indicate what public health objective (protection against which risk) was involved. The United States was particularly concerned that the Swiss measures did not appear to be based on a risk assessment or supportive scientific evidence, and requested a copy of such evidence if it did exist. Furthermore, the treatment of products imported under the TRQ, compared to products outside the TRQ, was unjustified and illogical. The representative of the United States suggested that protectionism was the real motivation for the measures, not health protection. Switzerland's attempt to impose its own animal standards as a condition for trade was also counter to its obligations under the WTO. The United States, as well as Canada, had submitted formal comments to the Swiss Enquiry Point. India asked to participate in any bilateral consultations which might be held on this matter.

30. The representative of Switzerland responded that the measures at issue related to the implementation of the new Swiss Federal Law on Agriculture of 29 April 1998. The objective of the three notifications was to inform the Committee well in advance of the entry into force of any measures, thus fully respecting the notification procedures. His authorities were still discussing the implementation of the new Federal Law on Agriculture. The questions raised by the United States and other Members to the Swiss Enquiry Point and in the Committee could not be fully addressed yet, but would be taken into account in the ongoing domestic discussions. He stressed that the proposed measures responded to sanitary considerations and appropriate consumer information and had no protectionist objective.

(ii) *Japan - Notification (G/SPS/N/JPN/37) on amendment of enforcement ordinance of the Japanese Plant Protection Law*

31. The representative of the United States noted that the Japanese draft regulation proposed the addition of 27 pests to the list of non-quarantine pests in Japan's Plant Protection Law (G/SPS/GEN/100 refers). These additional pests, when intercepted on commodities arriving in Japan, would no longer be subject to quarantine measures. Although encouraged by certain aspects of Japan's proposal, the United States continued to have concerns regarding the basis and application of Japan's phytosanitary legislation. In particular, Japan's legislative amendments did not appear to alter the current practice of requiring fumigation and other costly treatments for most non-quarantine pests, including those pests which were widespread in Japan and not subject to internal regulatory or quarantine controls. Japan's quarantine actions regarding non-quarantine pests, in many instances, unjustifiably discriminated against foreign imports. The United States urged Japan to re-evaluate its basis for defining and taking action on quarantine pests in accordance with the IPPC definition of a "quarantine pest" and the principle of "non-discrimination" ("... In the case of a quarantine pest within a country, measures shall be applied without discrimination between domestic and imported consignments.").

32. The representative of the European Communities noted that according to Article 5.2 of the Japanese law all pests not included in the relevant list were considered as quarantine pests. The failure to include in the list non-harmful pests which also occurred generally in Japan would lead to the regular rejection of imports or their submission to lengthy procedures at considerable expense. This seemed to be in breach of Article 2.3 of the SPS Agreement. Furthermore, Japan established an exceptional list of pests, rather than a list of quarantine pests with identified risks. This approach did not seem to be in conformity with Articles 2.1 and 2.2 of the SPS Agreement. Japan had indicated that international standards on which to base the relevant evaluation did not exist, and yet it maintained that the proposal had been developed according to the IPPC guidelines for pest risk analysis. Japan's risk assessment, apparently in conformity with Article 5.1 of the SPS Agreement, had resulted in the listing of pests which were not considered as quarantine pests. This did not, however, address requests from WTO Members for consideration of specified pests. The EC representative requested that, in accordance with Article 5.8 of the SPS Agreement, Japan provide the scientific rationale behind the measure and the documents concerning its risk analysis.

33. The representative of Uruguay recalled that according to the revised IPPC, phytosanitary requirements could only be applied to regulated pests. These included two categories: quarantine pests, including pests normally non-existent in a country, and a new category of regulated non-quarantine pests, specified as those which, if not regulated, would have a high impact on the proposed use of the contaminated material. The IPPC required the application of the principle of non-discrimination regarding this type of pest. The representative of Australia supported the United States' and Uruguayan statements and endorsed the positive aspects of the Japanese draft measure. However, Australia was concerned that the current legal and administrative arrangements to expand the list of pests were too inflexible. There needed to be an appropriate mechanism which enabled the non-quarantine pest list to be updated regularly, as was the case in other countries, including Australia. He encouraged the Japanese authorities to use internationally accepted pest risk analysis to identify further non-quarantine pests and to examine the current list in a publicly available forum. The representatives of the Philippines, on behalf of Asean countries, Chile, New Zealand and Canada supported the concerns raised above.

34. The representative of Japan indicated that the 27 non-quarantine pests added to the list were widely distributed in Japan and were not officially controlled. They were not quarantine pests according to the definition in the IPPC guideline on pest risk analysis. Japan had received requests from a number of Members for the addition of more pests to the list. However, these were quarantine pests subject to official control programmes, such as the plant pest forecasting programme. In light of the official control performed in Japan, his authorities believed they complied with the definition of quarantine pests in IPPC. In case the pest control by individual farmers was not properly performed, the central government would give instructions to prefectural governments to establish a control plan. Since Japan took the necessary measures against quarantine pests on domestic agricultural products as well as on imported products, his authorities did not think there was unjustifiable discrimination between domestic products and imported ones. The list of non-quarantine pests would be reviewed in the future with a view to expansion. His authorities welcomed the continuation of bilateral consultations to deepen mutual understanding of this matter.

(iii) Israel - Notification (G/SPS/N/ISR/2) on import restrictions of live cattle relative to TSE

35. The representative of the European Communities, supported by Switzerland, noted that Israel categorized countries' BSE status on the basis of a number of parameters which were not further clarified, such as surveillance, import restrictions and records of BSE cases. Israel's notification did not provide sufficient information and listed a number of compulsory requirements which did not appear to be justified, but the European Communities assumed that the purpose of the measure was the protection of public and animal health from BSE. He noted that Israel was not following the OIE recommendations. The OIE Code Commission proposed that the assessment of the risk for human and animal health in countries, or regions within countries, be based on a combination of the spread of BSE and the application of measures to control risk. The OIE foresaw five different categories, listed from A to F, where the risk and incidence of BSE were considered separately and formed the basis for categorization. He questioned the basis of Israel's categorization scheme, which apparently failed to comply with Articles 2.2 and 3.1 of the SPS Agreement, and requested more information on the background of the measure and on the risk assessment. Invoking Article 5.8 of the SPS Agreement, the European Communities requested an explanation of the notified legislation, and in particular of the guidelines used by Israel for the risk assessment and the criteria used for the categorization of countries on the basis of their BSE status. The EC representative requested written responses to a number of other questions, including what information exporting countries were requested to provide and which countries, if any, had already been evaluated against this information; what was the scientific justification behind a ban on the import and use of all animal feed of mammalian meat and bone meal; what considerations had resulted in the definition of specific age limits of cattle for fattening and for slaughter; and whether these limits applied in the exporting country.

36. The representative of Israel requested the European Communities to provide its questions in writing for submission to his authorities.

(iv) *United States - Notification (G/SPS/N/USA/133) on refrigeration and labelling requirements for shell eggs*

37. The EC representative queried whether the US measure was based on a risk assessment and if such risk assessment was available. Moreover, he sought written clarification from the United States on the non-application of the measure to certain types of production units, those with 3,000 or less hens, and asked whether the United States could explain the discrimination between imported eggs and some domestic eggs. He also inquired whether the US authorities would accept to consider equivalent measures, as provided for in Article 4 of the SPS Agreement.

38. The representative of the United States responded that the US measure was based on a risk assessment which was available on Internet, but which he would nevertheless provide to the European Communities. He welcomed the EC request for consideration of equivalence of measures and indicated that the United States would respond to the more technical questions in due course.

(v) *Czech Republic - Notification (G/SPS/N/CZE/16) on imports of poultry meat from Thailand*

39. The representative of Thailand recalled the Czech Republic's ban on imports of poultry meat from Thailand, an issue raised at the last Committee meeting.⁵ He indicated that Thailand and the Czech Republic had held bilateral consultations with the aim of finding an expeditious solution to this problem. The consultations had been useful, and the Czech Republic had agreed to provide Thailand with further clarifications on the measure, as well as its scientific justification.

40. The representative of the Czech Republic confirmed that the consultations had been very productive. Some information and clarification had previously been provided to Thailand and the Czech Republic had agreed to reply in writing to further Thai questions. This exchange of information would take place prior to a mission of Czech experts to Thailand in the near future.

(d) Any other matters related to the operation of transparency provisions

41. The Chairman indicated that the most recent list of Enquiry Points was circulated as G/SPS/ENQ/7/Add.1. The latest list of National Notification Authorities was contained in document G/SPS/GEN/91/Add.1. He informed the Committee that Dominica had recently identified its National Notification Authority and National Enquiry Point and encouraged Members which had not yet identified both a National Notification Authority and an Enquiry Point to do so as quickly as possible.

2. Monitoring the Use of International Standards

42. The Secretariat introduced the first draft annual report to the Committee under the agreed provisional procedure to monitor the process of international harmonization. The EC representative indicated that his delegation would submit some additions to the text of the draft report, in particular with regard to EC positions reflected in the report.

43. The representative of the Philippines noted that the non-existence of an international standard for the use of benzoic acid as a preservative in sauces had a significant impact on the trade of sauces. The use of benzoic acid in sauces was included in the draft Codex General Standard for Food Additives (GSFA). It was important that the GSFA be finalized soon, as the lack of an international

⁵ See G/SPS/R/12, paragraphs 81-82.

standard not only hurt international trade in sauces but had the potential to hurt trade in other processed food products where preservatives were used.

44. The United States welcomed the Philippine submission and stressed the importance of the Codex GSFA which was expected to be submitted for adoption by Codex members in June 1999. In the US view, the Codex Committee on Food Additives and Contaminants was doing excellent work establishing a modern approach to food additives, which required cooperative and innovative standards work to protect public health and provide transparent and understandable codes for processors and traders. Positive trade benefits could be expected from the June 1999 adoption of the GSFA.

45. The representative of the European Communities indicated that his delegation would submit written comments to the Committee on the Philippine submission. He raised another issue relating to bovine semen, where the frequency of controls carried out on bulls in collection centres (brucellosis, tuberculosis, leucosis, IBR) affected trade (G/SPS/W/96 refers). He noted that an international standard was contained in various articles of the OIE International Animal Health Code, but the European Communities believed that this was a case where it would be useful to analyse whether the OIE standard was appropriate.

46. With respect to the submission by Canada on the issue of certification regarding the absence of certain pathogens in raw meat products, representatives of the United States and the European Communities supported the need to move forward (G/SPS/W/89 refers). A significant number of restrictions were imposed on meat products because of the presence of certain animal diseases unlikely to be transmitted through meat. Likewise, the US representative agreed that the elaboration of international standards in this area would contribute significantly to resolving a number of trade issues. As an example, he noted that some Members had indicated that Australia's quarantine requirements for importation of cooked chicken meat were too stringent and substantially more trade restrictive than necessary to safeguard animal health. Some diseases of concern identified by Australia, particularly Infectious Bursal Disease (IBD), was unlikely to be transmitted by meat and thus the strict temperature requirements imposed by Australia seemed unnecessary. Similarly, countries in regions free of Newcastle disease should be able to export poultry meat without unnecessary restrictions being applied solely due to vaccination. He noted that, although there had never been a documented case of transmission of avian influenza through meat, Mexico was considering testing requirements for avian influenza that would hamper US exports of poultry meat. Until recently Argentina had maintained a ban on imports of fresh, chilled and frozen pork meat from the United States to protect against the risk of the introduction of porcine respiratory and reproductive syndrome. This disease was spread by contact among pigs and, in recognition of this fact, Argentina had agreed to develop less restrictive measures that would permit trade in pork. This list of issues clearly illustrated significant trade concerns and the United States supported Canada's suggestion that the OIE be requested to develop guidelines that more specifically addressed animal health certification for meat and meat products, perhaps beginning by guidelines on some of the specific diseases just identified.

47. The representative of Australia stressed that there was scientific evidence in support of the measures which Australia applied. AQIS had recognized that there was a deficiency in the information base concerning the distribution of IBD virus in tissues and organs of infected chicken and had commissioned the central laboratory at Weybridge in the United Kingdom to study the issue. Results of that study showed that chicken muscle contained detectable very virulent IBD virus 48, 72 and 96 hours post infection, and chicken which had been subject to thermal treatment at 80°C for 15 minutes still contained a significant titre of IBD virus, suggesting that the virus can survive in cooked meat derived from IBD infected chicken.

48. The Committee agreed to a proposal from Chile to schedule an informal meeting in advance of the March 1999 meeting of the Committee. The purpose of the informal meeting would not be to

undertake technical discussions on the issues addressed by the different submissions, which were in the competence of the international standard-setting bodies, but rather to further discuss the identified issues and to develop focused and specific requests that could eventually be sent to these bodies. Depending on the outcome of that discussion, the Committee could determine whether representatives of the standard-setting organizations should be invited to future informal meetings.

3. Consistency

49. The Chairman informed the Committee that informal consultations on draft guidelines to further the practical implementation of Article 5.5 had been held prior to the formal meeting of the Committee. Although the Secretariat had not been able to draft a new, consolidated paper to take into account comments made at the September 1998 informal discussions, New Zealand, the United States, Norway and Japan had tabled new papers which had facilitated very positive discussions. Members seemed closer to an agreement on guidelines and the Secretariat would prepare a new draft paper based on the discussions and papers submitted by Members, to be circulated by 15 January 1999.

50. The representative of Argentina agreed that the establishment of an appropriate level of protection was a political decision. However, this political decision led to SPS measures. A political decision which did not result in a measure had no trade implications and was not of interest to the Committee. On the other hand, a measure which did not reflect a political decision establishing an appropriate level of SPS protection had no objective and, consequently, its implementation was unjustifiable. In other words, there had to be a relation between the political decision, the measure and its implementation. Article 5 of the SPS Agreement should be seen in its entirety, not as offering different options. A political decision not based on scientific evidence remained a political decision, but had no justification under the SPS Agreement. It would unjustifiably affect the contractual rights and obligations of Members. Article 5.5 guidelines should reflect the fact that the practical implementation of the political decisions should be legitimate, based on scientific justification, and not arbitrary or unjustifiable.

4. Review of the SPS Agreement

51. The Chairman recalled that in accordance with the agreed procedure, informal consultations had been held prior to the meeting. At the Committee meeting in September, background papers on regionalization, harmonization and equivalence had been discussed. The Committee had also considered in detail a synoptic table of the proposals which had been made with respect to the transparency and notification provisions, the special needs of developing countries and technical assistance. For the present meeting, Members had been invited to submit specific papers on the risk assessment provisions, dispute resolution, and control and inspection procedures (Annex C). However, no papers had been received. During the informal consultations, Members had considered a first draft report on the review exercise (G/SPS/W/92 refers). The Secretariat would prepare a new draft of the report for circulation to Members by 15 January 1999, requesting written comments prior to the Committee meeting in March 1999, with a view to concluding the report at that meeting.

52. The representative of India noted that if the objective was to conclude the report at the March 1999 meeting, it would be helpful if an informal meeting of the Committee could be organized prior to the formal meeting, possibly in February. Upon discussion of the Indian proposal, it was agreed that, on the basis of written comments from Members on the revised draft report by 3 February 1999 at the latest, the Chairman, in consultation with the Secretariat, would determine whether there was a need for an informal meeting in February or whether it would be sufficient to hold an informal meeting in March prior to the formal meeting of the Committee.

53. The representative of the European Communities introduced a paper on adaptation to regional conditions and equivalence (G/SPS/GEN/101 refers). He noted that this subject was intimately

related to efforts to combine levels of protection and minimize effects on trade. The paper described the EC experiences in applying the regionalization concept in animal health matters, both within the European Communities and in relation to third countries. A section of the paper dealt with plant health and described the types of protected zones that could be identified and the EC procedures for recognition of a protected zone within the European Communities. There was also a section on equivalence, including a reflection on how equivalence related to regionalization. The general steps necessary to produce a risk assessment before equivalence was applied were also described. The EC experience supported the notion that it was possible to meet the objective to maintain a high health status while minimizing barriers of trade.

5. Technical assistance and cooperation

54. The Secretariat reported on technical assistance activities undertaken since the September 1998 meeting. The Secretariat had participated in two training seminars for developing countries organized within the framework of broader WTO technical cooperation. Moreover, the Secretariat had participated in a workshop on food control procedures on exports, import quality assurance systems and technical requirements in the European Communities' markets organized by the Islamic Development Bank and the Turkish authorities in Istanbul. The Secretariat would soon attend a seminar on Latin American and Caribbean concerns in the face of the process of further multilateral agricultural reforms. In 1999, the Secretariat would participate in an SPS seminar to be held in Thailand on 3-5 February 1999, sponsored by the Netherlands under the Asian/European Trade Facilitation Action Plan. The Secretariat was also organizing national seminars to be held in Africa in 1999. The intention was to visit 2-3 countries, perhaps in March and September 1999, and hold national seminars with the participation of neighbouring countries.

55. The representative of the European Communities indicated that it would be useful if advance copies of the agendas and the reports of the technical cooperation seminars organized by the Secretariat were made generally available. He clarified that the technical cooperation seminar to be held in Thailand was organized by the Netherlands together with Thailand and China, for participation by all Asian partners. The WTO, the Codex Alimentarius, the OIE and the IPPC would also participate. The aim of the seminar was to enhance mutual understanding through an exchange of information between partners, specifically concerning notifications and implementation of international standards in the field of food safety, animal health and plant protection.

56. The representative of the Codex Alimentarius announced that the information paper on the "FAO Technical Assistance Programme: Food Quality and Safety" was currently being updated and revised, including the list of FAO publications, technical assistance projects, workshops and seminars. The revised version of the document would be provided to the SPS Committee.

57. The representative of the WHO noted that microbiological aspects of food safety were becoming a serious concern for WHO member countries. WHO was currently developing two databases on foodborne diseases: (i) a data bank on foodborne disease outbreaks with epidemiological information on investigated outbreaks including food involved, place of contamination, etiologic agent, etc., and (ii) a data bank on foodborne disease incidence where data on the incidence of various foodborne diseases were collected. These databases would be finalised by next spring and posted on the WHO website.

58. The representative of the OIE informed the Committee that two meetings had been held in the beginning of November 1998. One had been organized in Egypt by the FAO for Middle East countries to discuss the impact of animal diseases on trade of live animals and animal products in the region. The OIE had organized a second seminar on epidemic surveillance of animal diseases in Africa, held in Senegal, and addressed to French speaking countries. The establishment of surveillance systems in the concerned countries should, in the future, allow these countries to be recognized by the OIE as free of the Rinderpest virus.

59. The representative of the IPPC reported that the 7th International Working Conference on Stored Product Pests had been held in Beijing, China in October 1998. Phytosanitary measures had a prominently featured in the meeting. The IPPC Secretariat and Chinese phytosanitary officials had agreed to exchange information concerning pest risk analysis. The IPPC also indicated that Chinese phytosanitary officials expressed a strong interest in initiating similar exchanges on SPS matters with the WTO Secretariat and Members.

60. The representative of Chile noted that in 1998 Chile had benefitted from an FAO Technical Cooperation Programme (TCP) related to the operation of the recently created National Codex Alimentarius Committee. Previously, Chile had been an active participant in the OIE and IPPC, but its participation in Codex activities was limited. Within the TCP, four workshops had been organized covering certification and inspection; standardization procedures; risk analysis and critical points; and residue tolerance levels. The National Codex Committee replicated the different Codex committees at the domestic level and included official authorities, the private sector and universities. Chile encouraged other developing country Members to take advantage of the FAO TCP, and expressed its willingness to provide information and documentation related to its own experience through the Chilean Codex contact point.

6. Matters of interest arising from the work of observer organizations

(a) OIE

61. The representative of the OIE informed the Committee that within the framework of the OIE Code Commission ad hoc groups had met or were going to meet, in particular to deal with the epidemiology of BSE. A new draft chapter on this disease would be sent to OIE members for comments before the May 1999 General Session. The Foot-and-Mouth Disease (FMD) Commission was studying a procedure to recognize countries free from BSE, and would make proposals in this regard in its January 1999 report. The Standards Commission had agreed on a new definition of Newcastle disease, a necessary step for the establishment of a Newcastle surveillance standard and the revision of the International Health Code. Further information was available from the OIE website <http://www.oie.int/>.

(b) Codex

62. The representative of Codex reported on the results of the 11th Session of the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF), held in September 1998. The CCRVDF forwarded over 180 maximum residue limits (MRLs) for 16 veterinary drugs to the Codex Alimentarius Commission for adoption, including final MRLs for bovine somatotropin and draft MRLs for the chlortetracycline/oxytetracycline/tetracycline group. Noting WHO's request for better international cooperation in the field of non-human use of anti-microbials, the CCRVDF had agreed to further consider the use of anti-microbials in animal production at its next meeting, taking into account the activities of other international bodies. The representative of Codex also highlighted the results of the 31st Session of the Codex Committee on Food Hygiene, held in October 1998. One of the key documents finalized at the meeting for adoption by the Codex Alimentarius Commission had been the Principles and Guidelines for the Conduct of Microbiological Risk Assessment. The Committee was also continuing work in the area of foodborne diseases through the elaboration of discussion papers on principles and guidelines for microbiological risk management and codes of practice related to the primary production, harvest and packaging of fresh fruits and vegetables and pre-cut fruits and vegetables. The Committee would also have further discussions concerning the existence of regional differences in the prevalence of various foodborne pathogens in the food chain. Further information was available from the Codex website <http://www.fao.org/waicent/faoinfo/economic/esn/codex/Default.htm>.

(c) WHO

63. The representative of the WHO provided an update on the revision of the International Health Regulations (IHR). The Committee on International Surveillance of Communicable Diseases, which was the expert WHO Committee tasked with the review of the draft IHR, would begin its review in Geneva 16-20 November 1998. After the meeting, the draft IHR would be revised to include the recommendations of the expert committee and the comments received to date from WHO members. This draft would then be circulated early in the new year to member states, international organisations and NGOs for further comment. In-country "focus groups" had been suggested as a useful forum to discuss the nature and scope of the traffic and trade challenges that stemmed from international public health events. It was hoped that these groups could identify possible international trade and health sector co-operation that could help minimise economic damage to members. The WHO was developing a document comparing IHR, the SPS Agreement and Codex, which would be distributed when the information and recommendations had been reviewed by all parties. Further information was available from the WHO website <http://www.who.org/>.

(d) IPPC

64. The representative of the IPPC referred to the first meeting of the Interim Commission, held in November 1998. He noted that the Interim Commission had elected a bureau and reached provisional agreement on rules of procedure, pending the completion of an annex outlining standard setting procedures. The Interim Commission had also reviewed the priorities for the work programme of the IPPC Secretariat and had adopted two new international standards for phytosanitary measures: "Determination of pest status in an area" and "Guidelines for pest eradication programmes". The second meeting of the Interim Commission was tentatively scheduled for 4-8 October 1999 at FAO Headquarters in Rome. The 10th Technical Consultation Among Regional Plant Protection Organizations had followed the Interim Commission meeting. The Consultation had highlighted the role of regional plant protection organizations in the acceptance and implementation of the new IPPC. Technical discussions had included pest reporting obligations, the concepts of appropriate level of protection and acceptable level of risk, and a definition for the term "official control". Other topics had included the voluntary use of new phytosanitary certificates and the role of regional plant protection organizations in the SPS Committee. The reports of both meetings were available from the IPPC Secretariat and would soon be posted on the IPPC website <http://www.fao.org/WAICENT/FaoInfo/Agricult/AGP/AGPP/PQ/>.

7. Observers

65. The formal meeting of the Committee was suspended in order to allow for informal discussions under this item. In resuming the formal meeting, the Chairman reported that informal discussions under this item had been fruitful and that the Committee would address the issue again at its March 1999 meeting. The formal meeting would be preceded by further informal discussions on the basis of a paper to be prepared by the Secretariat reflecting comments and papers provided by Members at the current meeting.

8. Annual report to the Council for Trade in Goods

66. The Chairman indicated that, as customary, he would on his own responsibility submit a brief, factual report on the work of the Committee during 1998 to the Council for Trade in Goods. The report would identify the main matters considered by the Committee at both its formal and informal meetings. Several Members had informally made suggestions regarding this report, which he would take into account to the extent possible.⁶

⁶ The report was subsequently circulated as document G/L/274 and Corr.1.

67. The Chairman reported that the Council on Trade in Goods had asked Chairpersons of several Committees, including the SPS Committee, to consider adding an item on Trade Facilitation to the agenda. The CTG was seeking input for informal consultations on trade facilitation scheduled for early March 1999. After consideration, he had drafted a response to the CTG, which had been discussed at an informal meeting of the Committee. The response was in essence that the Committee routinely considered trade facilitation, in particular through discussions on specific trade concerns and the monitoring of the use of international standards. At the informal consultations, a number of suggestions had been made, such as reference also to the important trade facilitation role of the transparency provisions of the Agreement and some other trade facilitation aspects of the Agreement as identified in the review exercise. As suggested by some Members, the Chairman would reply to the CGT on behalf of the Committee.

68. The representative of Costa Rica supported the Chairman's reply to the CTG, but noted that the CTG had approved a work programme to further the analytical and exploratory work on trade facilitation. At its meeting in March 1999 the CTG would consider, *inter alia*, the WTO agreements that related to trade facilitation or included related provisions. The ultimate objective of the work in this area would be to establish WTO trade facilitation standards in a meeting to be held in June 1999. The purpose of the CTG request for the establishment of an agenda item on trade facilitation was to allow the different Committees to compile the necessary elements for Members to decide whether or not it was necessary to establish specific and independent standards in the trade facilitation area, in conformity with the mandate of the Ministerial Conference of Singapore.

69. The representative of India noted that after informal consultations with participants on the CTG work, his understanding of the CTG objective was to identify the problems, as far as trade facilitation was concerned, that Members were facing. In this respect, the Chairman's reply seemed to be a good preamble, but perhaps did not adequately address the problems and concerns which his authorities might want to address in the future. In his opinion, some of the text of the draft report on the SPS review might better convey to the CTG the concerns of the Committee.

9. Other business

70. The representative of the European Communities indicated that the Polish notification requirements for sanitary certification of imports of milk and milk products (G/SPS/N/POL/14 refers) resulted in unjustified distortions of trade, since it required the application of heat treatment to products which were basically produced with raw milk. The European Communities felt that there were equivalent procedures ensuring that the level of protection requested by Poland was met by a different method. Moreover, the measure was not based on international standards. He invited Poland to engage in bilateral discussions to seek a better understanding of the reasons and condition of application of such measures.

71. The representative of Poland indicated that the EC request would be considered by the Polish authorities immediately upon reception of the official request.

10. Date and agenda of the next meeting

72. The next meeting of the Committee is scheduled for 10-11 March 1999. The Committee agreed on the following tentative agenda:

1. Adoption of the agenda
2. Implementation of the Agreement
 - (a) Information from Members
 - (b) Specific trade concerns

- (c) Consideration of specific notifications received
 - (d) Any other matters related to the operation of transparency provisions
 - (e) The SPS Agreement and developing countries (G/SPS/W/93)
3. Monitoring of the use of international standards
 4. Consistency - report by the Chairman on consultations
 5. Review of the SPS Agreement - report by the Chairman on consultations
 6. Technical assistance and cooperation
 7. Matters of interest arising from the work of observer organizations
 8. Observers – Requests for observer status
 9. Other business
 10. Chairmanship of the Committee
 11. Date and agenda of next meeting

73. The Chairman reminded delegates of the following:

(a) *Review of the SPS Agreement*

The Secretariat will circulate a revised draft report on the review of the Agreement by **15 January 1999**. Written comments by Members should be sent to the Secretariat not later than **3 February 1999**. If necessary in view of the comments received from Members, an informal meeting of the Committee to further discuss the review of the Agreement would take place on **11 February 1999**.

(b) *Article 5.5 guidelines*

The Secretariat will circulate a draft document by **15 January 1999**.

(c) *Informal meetings of the Committee*

On **8 and 9 March 1999**, the Committee will hold informal meetings on the review of the Agreement; Article 5.5 guidelines; requests for observer status; and monitoring the use of international standards.

74. Furthermore, the Chairman reminded delegates that the deadlines for requesting the inclusion of specific items on the agenda, or receiving submissions from Members under the respective agenda items, were as follows:

Agenda item 2: (b) Specific trade concerns and (c) notifications	25 February 1999
Agenda item 3: Monitoring procedure: Specific examples	8 February 1999
